Inland Empire Waterkeeper
Advocacy • Education • Restoration • Enforcement

6876 Indiana Avenue, Suite D
Riverside, CA 92506
Phone (951) 530-8823
Fax (951) 530-8824
Website www.iewaterkeeper.org

March 25, 2016

VIA CERTIFIED MAIL

Rialto Batch & Rock Plant
Attn: Managing Agent
2601 N. Alder Avenue
Rialto, California 92376

Robertson's Ready Mix, Ltd., a California Limited Partnership
200 S. Main Street
Suite 200
Corona, California 92882-2212

Mervyn Encarnacion
Registered Agent for Service of Process for Robertson's Ready Mix, Ltd., a California Limited Partnership
200 S. Main Street, Suite 200
Corona, California 92882-2212

Theodore J. Roper
c/o Freeman Freeman and Smiley, LLP
Registered Agent for Service of Process for Mitsubishi Materials Corporation
1888 Century Park East
Suite 1900
Los Angeles, California 90067

Mitsubishi Materials Corporation
11250 Slater Avenue
Fountain Valley, California 92708

Re: Notice of Violation and Intent to File Suit Under the Clean Water Act

To Whom It May Concern:

I am writing on behalf of Inland Empire Waterkeeper and Orange County Coastkeeper (collectively "Waterkeeper") regarding violations of the Clean Water Act[1] and California's Industrial Storm Water Permit[2] ("Storm Water Permit") occurring at the industrial facility with its main address at: 2601 N. Alder Avenue, Rialto, California 92376 ("Facility"). The purpose of this letter is to put Rialto Batch & Rock Plant, Robertson's Ready Mix, Ltd., a California Limited Partnership, and Mitsubishi Materials Corporation ("Robertson's") on notice of the violations of the Storm Water Permit occurring at the Facility, including, but not limited to, discharges of polluted storm water from the Facility into local surface waters. Violations of the

[1] Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*
[2] National Pollution Discharge Elimination System ("NPDES") General Permit No. CAS000001, Water Quality Order No. 92-12-DWQ, Order No. 97-03-DWQ, as amended by Order No. 2015-0057-DWQ.

Storm Water Permit are violations of the Clean Water Act. As explained below, Robertson's is liable for violations of the Storm Water Permit and the Clean Water Act.

Section 505(b) of the Clean Water Act, 33 U.S.C. § 1365(b), requires that sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a), a citizen must give notice of his/her intention to file suit. The Clean Water Act requires that notice must be given to the alleged violator, the Administrator of the United States Environmental Protection Agency ("EPA"), the Regional Administrator of the EPA, the Executive Officer of the water pollution control agency for the State in which the violations occur, and, if the alleged violator is a corporation, the registered agent of the corporation. *See* 40 C.F.R. § 135.2(a)(1).

This letter is being sent to you as a responsible owner and/or operator of the Facility, or as the registered agent for this entity. This notice letter ("Notice Letter") is issued pursuant to 33 U.S.C. §§ 1365(a) and (b) of the Clean Water Act to inform Robertson's that Waterkeeper intends to file a federal enforcement action against Robertson's for violations of the Storm Water Permit and the Clean Water Act sixty (60) days from the date of this Notice Letter.

I. BACKGROUND

A. Inland Empire Waterkeeper and Orange County Coastkeeper

Inland Empire Waterkeeper's office is located at 6876 Indiana Avenue, Suite D, Riverside, California 92506. Inland Empire Waterkeeper is a program of Orange County Coastkeeper. Orange County Coastkeeper is a non-profit public benefit corporation organized under the laws of the State of California with its office at 3151 Airway Avenue, Suite F-110, Costa Mesa, California 92626. Together, Inland Empire Waterkeeper and Orange County Coastkeeper have over 2,000 members who live and/or recreate in and around the Santa Ana River watershed. Waterkeeper is dedicated to the preservation, protection, and defense of the environment, wildlife, and natural resources of the Inland Empire watershed. To further these goals, Waterkeeper actively seeks federal and state agency implementation of the Clean Water Act and other environmental regulations, and, where necessary, directly initiates enforcement actions on behalf of itself and its members.

Members of Waterkeeper use and enjoy the waters that Robertson's discharges into, including the Santa Ana River and its tributaries. Specifically, members of Waterkeeper use and enjoy the Santa Ana River and its tributaries to swim, wade, picnic, hike, view wildlife, and engage in scientific study including monitoring activities. The discharge of pollutants from the Facility impairs each of these uses. Further, discharges of polluted storm water from the Facility are ongoing and continuous. Thus, the interests of Waterkeeper's members have been, are being, and will continue to be adversely affected by Robertson's failure to comply with the Clean Water Act and the Storm Water Permit.

B. The Owners and/or Operators of the Facility

Information available to Waterkeeper indicates that Robertson's Ready Mix, Ltd., is an owner and/or operator of the Facility. Robertson's Ready Mix, Ltd. is an active California limited partnership and its registered agent is: Mervyn Encarnacion, 200 S. Main Street, Suite 200, Corona, California 92882. Pursuant to California Corporations Code section 15904.04, Robertson's Ready Mix, Ltd.'s general partners are jointly and severally liable for the Clean Water Act violations described herein, and Waterkeeper will include Robertson's Ready Mix, Ltd.'s general partners when that information becomes available. Further, to the extent Robertson's Ready Mix, Ltd.'s limited partners own and/or operate the Facility together with Robertson's Ready Mix, Ltd., Waterkeeper will include those limited partners when that information becomes available.

Information available to Waterkeeper indicates that Mitsubishi Materials Corporation is the parent company of Robertson's and is an owner and/or operator of the Facility. Mitsubishi Materials Corporation is an active California corporation and its registered agent is: Theodore J. Roper, c/o Freeman Freeman and Smiley, LLP, 1888 Century Park East, Suite 1900, Los Angeles, California 90067.

Waterkeeper refers to Rialto Batch & Rock Plant, Robertson's Ready Mix, Ltd. a California limited partnership, and Mitsubishi Materials Corporation together as the "Facility Owners and/or Operators." The Facility Owners and/or Operators have violated and continue to violate the procedural and substantive terms of the Storm Water Permit including, but not limited to, the illegal discharge of pollutants from the Facility into local surface waters. As explained herein, the Facility Owners and/or Operators are liable for violations of the Storm Water Permit and the Clean Water Act.

C. The Facility's Storm Water Permit Coverage

Facilities that discharge storm water associated with specified industrial activities are required to apply for coverage under the Storm Water Permit by submitting a Notice of Intent ("NOI") to the State Water Resources Control Board ("State Board") to obtain Storm Water Permit coverage. *See* Storm Water Permit, Finding #12, 17.

Robertson's obtained Storm Water Permit coverage on September 16, 1994. The NOI submitted in December 1999 ("1999 NOI") identifies the owner/operator of the Facility as "Robertsons Ready Mix" at "6830 Van Buren Blvd., Riverside, CA 92509" and the Facility name and location as "Robertson's Rialto Plant, 2601 N. Alder Ave., Rialto, CA 92376." The 1999 NOI lists the Facility as 32 acres in size and .01% impervious.

On September 29, 2015, Robertson's submitted an NOI to continue the Facility's coverage under the Permit ("2015 NOI"). The 2015 NOI identifies the owner/operator of the Facility as "Robertsons Ready Mix" and the Facility name and location as "Robertsons Rialto Batch and Rock Plant, 2601 N Alder Ave, Rialto, CA 92376." The 2015 NOI lists the Facility as

"32," the industrial area exposed to storm water is listed as "15.2 acres,"[3] and the percentage of imperviousness is not listed. The 2015 NOI list the Waste Discharge Identification ("WDID") number for the Facility as 8 36I015507.

The 1999 and 2015 NOIs list the Standard Industrial Classification ("SIC") codes for the Facility as 3273 (Ready-Mix Concrete) and 1442 (Construction Sand and Gravel). SIC code 3273 facilities must obtain Storm Water Permit coverage for the entire facility. *See* Storm Water Permit, Attachment A, ¶ 2. Further, information available to Waterkeeper, including the Facility Storm Water Pollution Prevention Plan ("SWPPP")[4] describing vehicle and equipment maintenance and storage at the Facility, indicates that SIC code 4214 (local trucking with storage) also applies to the Facility.

D. Storm Water Pollution and the Waters Receiving Robertson's Discharges

With every significant rainfall event, millions of gallons of polluted storm water originating from industrial operations such as the Facility pour into storm drains and local waterways. The consensus among agencies and water quality specialists is that storm water pollution accounts for more than half of the total pollution entering surface waters each year. Such discharges of pollutants from industrial facilities contribute to the impairment of downstream waters and aquatic dependent wildlife. These contaminated discharges can and must be controlled for the ecosystem to regain its health.

Based on EPA's Industrial Stormwater Fact Sheet for Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing Facilities, polluted discharges from concrete mixing facilities such as the Facility contain pH affecting substances; metals, such as iron and aluminum; toxic metals, such as lead, zinc, cadmium, chromium, and arsenic; chemical oxygen demand ("COD"); biological oxygen demand ("BOD"); total suspended solids ("TSS"); benzene; gasoline and diesel fuels; fuel additives; coolants; and oil and grease ("O&G"). Many of these pollutants are on the list of chemicals published by the State of California as known to cause cancer, birth defects, and/or developmental or reproductive harm. Discharges of polluted storm water to the Santa Ana River and its tributaries pose carcinogenic and reproductive toxicity threats to the public and adversely affect the aquatic environment.

[3] To the extent the Facility Owners and/or Operators have or intend to limit the Storm Water Permit coverage at the Facility based on the asserted acreage "exposed to storm water," Waterkeeper puts the Facility Owners and/or Operators on notice that they have not complied, and cannot comply, with Section XVII.E.1. of the Storm Water Permit and the required "no exposure" certification. Further, to the extent the Facility Owners and/or Operators failed to obtain Permit coverage for all areas of industrial activity at the Facility, storm water discharges associated with industrial activities from unpermitted portions of the Facility violate section 301(a) of the Clean Water Act.

[4] The Facility SWPPP publicly available via the SMARTS database is labeled "June 2015" and is signed by the Facility's "legally responsible person" on June 29, 2015. Waterkeeper also obtained the June 2015 SWPPP via a Public Records Act request. Waterkeeper understands that the June 2015 SWPPP is the current SWPPP for the Facility.

The Facility discharges flow into the municipal storm drain system, which discharges into Reach 4 of the Santa Ana River, the Santa Ana River Salt Marsh and the Tidal Prism of Santa Ana River, and ultimately the Pacific Ocean, which includes Nearshore and Offshore zone (collectively "Receiving Waters"). These are ecologically sensitive areas. Although pollution and habitat destruction have drastically diminished once-abundant and varied fisheries, these waters are still essential habitat for dozens of fish and bird species as well as macro-invertebrate and invertebrate species. Storm water and non-storm water contaminated with sediment, heavy metals, and other pollutants harm the special aesthetic and recreational significance that the Receiving Waters have for people in the surrounding communities. The public's use of local waterways exposes many people to toxic metals and other contaminants in storm water discharges. Non-contact recreational and aesthetic opportunities, such as wildlife observation, are also impaired by polluted discharges to the Receiving Waters.

The California Regional Water Quality Control Board, Santa Ana Region Regional Board ("Regional Board") issued the *Santa Ana River Basin Water Quality Control Plan* ("Basin Plan"). The Basin Plan identifies the "Beneficial Uses" of water bodies in the region. The Beneficial Uses for the Receiving Waters downstream of the Facility include: Water Contact Recreation; Non-contact Water Recreation; Warm Freshwater Habitat; Wildlife Habitat; Rare, Threatened or Endangered Species; Agricultural Supply; Groundwater Recharge; Estuarine Habitat; Marine Habitat; Preservation of Biological Habitats of Special Significant; Commercial and Sportfishing; and Spawning, Reproduction and Development. *See* Basin Plan at Table 3-1. According to the 2010 303(d) List of Impaired Water Bodies, Reach 4 of the Santa Ana River is listed as impaired for pathogens.[5] Reach 3 of the Santa Ana River is impaired for copper, lead, and pathogens.[6] Polluted discharges from industrial sites, such as the Facility, contribute to the degradation of these already impaired surface waters and aquatic-dependent wildlife that depends on these waters.

II. THE FACILITY AND ASSOCIATED DISCHARGES OF POLLUTANTS

A. The Facility Site Description and Industrial Activities

The Facility is an active mining operation and concrete batch plant. Raw materials, including aggregate (rock, sand, and gravel), cement[7], fly ash, and admixtures are delivered to

---

[5] 2010 Integrated Report – All Assessed Waters, *available at* http://www.waterboards.ca.gov/water_issues/programs/tmdl/2010state_ir_reports/category5_report.shtml (last visited March 8, 2016).

[6] 2010 Integrated Report – All Assessed Waters, *available at* http://www.waterboards.ca.gov/water_issues/programs/tmdl/2010state_ir_reports/category5_report.shtml (last visited March 8, 2016).

[7] Based on Waterkeeper's review of the Facility SWPPP, cement is stored in "cement storage silos" in the concrete batch plant area of the Facility, and that cement is received in this area. To the extent cement is stored outdoors, storm water discharges from the Facility may be subject to additional effluent limitations set out at 40 C.F.R. §.411.30. Waterkeeper will add additional information and/or violations relevant to the Facility Owners and/or Operators' storage and handling of cement as that information becomes available to Waterkeeper.

the Facility, and are mixed with water to create concrete. These materials, water, and (if applicable) admixtures are added to concrete haul trucks that mix the ingredients together to produce concrete and haul the concrete off site. As part of the concrete production process, unused concrete is returned to the Facility, stored onsite, and recycled. The concrete production process also includes onsite vehicle and mobile equipment operation, parking, fueling, and maintenance.

Industrial activities associated with the mining operation include, but are not limited to: mining aggregate material (rock, sand, and gravel) from an open pit; processing and washing aggregate material; vehicle and equipment fueling, storing, and maintenance; storing finished product in stockpiles; and loading finished products into haul trucks.

Industrial activities associated with the concrete batch plant include, but are not limited to: concrete mixing; transport of raw materials; receiving, loading, and unloading of raw materials; mining and outdoor storage of raw materials, including sand, gravel, rock, chemical admixtures, fly ash, cement, and recycled concrete; fueling, repairing, cleaning, and maintaining vehicles and equipment; storage of fuels and hazardous materials, such as diesel fuel, lubricating fluids, new vehicle fluids, and hazardous waste vehicle fluids; and vehicle and equipment storage.

B. Pollutants Associated with Robertson's Industrial Activities

Information available to Waterkeeper indicates that the pollutants associated with operations at the Facility include, but are not limited to: pH-affecting substances[8]; nitrate + nitrite nitrogen ("N+N"), metals, such as iron and aluminum; toxic metals, such as lead, zinc, cadmium, chromium, copper, and arsenic; COD; BOD; TSS[9]; benzene; gasoline and diesel fuels; fuel additives; coolants; trash; and O&G.

Information available to Waterkeeper indicates that Robertson's has not properly developed and/or implemented the required best management practices ("BMPs") to address pollutant sources and contaminated discharges. BMPs are necessary at the Facility to prevent the

[8] Storm water discharged with high pH can damage the gills and skin of aquatic organisms and cause death at levels above 10 standard units. The pH scale is logarithmic and the solubility of a substance varies as a function of the pH of a solution. A one whole unit change in SU represents a tenfold increase or decrease in ion concentration. If the pH of water is too high or too low, the aquatic organisms living within it will become stressed or die.

[9] High concentrations of TSS degrade optical water quality by reducing water clarity and decreasing light available to support photosynthesis. TSS has been shown to alter predator prey relationships (for example, turbid water may make it difficult for fish to hunt prey). Deposited solids alter fish habitat, aquatic plants, and benthic organisms. TSS can also be harmful to aquatic life because numerous pollutants, including metals and polycyclic aromatic hydrocarbons, are absorbed onto TSS. Thus, higher concentrations of TSS results in higher concentrations of toxins associated with those sediments. Inorganic sediments, including settleable matter and suspended solids, have been shown to negatively impact species richness, diversity, and total biomass of filter feeding aquatic organisms on bottom surfaces.

exposure of pollutants to precipitation and the subsequent discharge of polluted storm water from the Facility during rain events. Consequently, during rain events, storm water carries pollutants from the Facility's stockpile or material storage area(s), truck parking area(s), fueling and maintenance area(s), add-mix area(s), batch plant area(s), washing area(s), and other areas into the storm sewer system, which flows into the Receiving Waters, in violation of the Storm Water Permit.

Information available to Waterkeeper also indicates that concrete, particulates, and fugitive dust of sand, gravel, and cement have been and continue to be tracked throughout the Facility. These pollutants accumulate at the sand and gravel mining and storage areas and near the silos, the loading and unloading areas, and the driveways leading to Alder Ave. As a result, trucks and vehicles leaving the Facility via the driveway are pollutant sources tracking sediment, dirt, O&G, metal particles, and other pollutants off-site.

Information available to Waterkeeper indicates that raw materials are mined and stored outside, and weighing and mixing activities occur outside without adequate cover or containment resulting in discharges of polluted storm water. Additionally, metal parts and hazardous materials associated with maintenance, fueling, and washing of the concrete trucks occur outside without secondary containment or other measures to prevent polluted storm water and prohibited non-storm water discharges from discharging from the Facility. These activities are all significant pollutant sources at the Facility.

Robertson's failure to develop and/or implement required BMPs also results in prohibited discharges of non-storm water in violation of the Storm Water Permit and the Clean Water Act. Information available to Waterkeeper indicates that Robertson's discharges process waters from equipment washing and other activities as part of its industrial operations.

C. Facility Storm Water Flows and Discharge Locations

In the Facility's SWPPP, the Facility Owners and/or Operators state that the Facility is considered a single drainage area (DA-1) and identify one (1) discharge point at the Facility: Outfall 1 ("OF1"). The Facility SWPPP states that storm water that falls in the areas draining to OF1 flows through v-ditches to a detention basin(s) located along the western property line, and that overflow from the detention basin flows across a v-ditch along the eastern property line to two (2) holding tanks. Storm water discharges from the holding tanks in the west direction to an inlet located at the Facility entrance, i.e., OF1.

The Facility Owners and/or Operators also report that storm water in the mining pit is retained in the pit, and that storm water in "other areas" of the Facility is directed to a series of detention basins that "retain storm water." As to the batch plant area, the Facility Owners and/or Operators report that a shallow retention pond collects industrial waste water generated from truck washing, which flows into a 3 pit reclaimer system. Overflow from these wash out basins flows to a sump. Storm water is also collected in that sump such that non-storm water and storm water is commingled. In addition, a detention basin at the southeast corner of the Facility collects storm water. No sizing information is provided for any detention/retention basin at the Facility.

Waterkeeper's observations and storm water samples collected by the Facility Owners and/or Operators demonstrates that storm water discharges from the Facility notwithstanding the detention basin. Based on information available to Waterkeeper, the detention basin does not contain all storm water at the Facility and that storm water polluted by the industrial activities at the Facility discharges to the Receiving Waters from at least two discharge points at the Facility.[10]

III. VIOLATIONS OF THE CLEAN WATER ACT AND THE STORM WATER PERMIT

In California, any person who discharges storm water associated with industrial activity must comply with the terms of the Storm Water Permit in order to lawfully discharge pollutants. *See* 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 122.26(c)(1); *see also* Storm Water Permit, Fact Sheet at VII.

Between 1997 and June 30, 2015, the Storm Water Permit in effect was Order No. 97-03-DWQ, which Waterkeeper refers to as the "1997 Permit." On July 1, 2015, pursuant to Order No. 2015-0057-DWQ, the Storm Water Permit was reissued. For purposes of this Notice Letter, Waterkeeper refers to the reissued permit as the "2015 Permit." The 2015 Permit superseded the 1997 Permit, except for enforcement purposes, and its terms are as stringent, or more stringent, than the terms of the 1997 Permit. *See* 2015 Permit, Findings, ¶ 6. Accordingly, Robertson's is liable for violations of the 1997 Permit and ongoing violations of the 2015 Permit, and civil penalties and injunctive relief are available remedies. *See Illinois v. Outboard Marine, Inc.*, 680 F.2d 473, 480-81 (7th Cir. 1982) (relief granted for violations of an expired permit); *Sierra Club v. Aluminum Co. of Am.*, 585 F. Supp. 842, 853-54 (N.D.N.Y. 1984) (holding that the Clean Water Act's legislative intent and public policy favor allowing penalties for violations of an expired permit); *Pub. Interest Research Group of N.J. v. Carter-Wallace, Inc.*, 684 F. Supp. 115, 121-22 (D.N.J. 1988) ("Limitations of an expired permit, when those limitations have been transferred unchanged to the newly issued permit, may be viewed as currently in effect").

A. Unauthorized Non-Storm Water Discharges from the Facility in Violation of Storm Water Permit Discharge Prohibitions

Except as authorized by Special Conditions D(1) of the 1997 Permit, Discharge Prohibition A(1) prohibits permittees from discharging materials other than storm water (non-storm water discharges) either directly or indirectly to waters of the United States. The 2015 Permit includes the same discharge prohibition. *See* 2015 Permit, Discharge Prohibition III.B. Prohibited non-storm water discharges must be either eliminated or permitted by a separate NPDES permit. *See* Storm Water Permit, Discharge Prohibition A(1); *see also* 2015 Permit,

[10] To the extent Robertson's intends to retain storm water associated with industrial activities on the Facility in an effort to terminate its current Permit coverage, Waterkeeper puts Robertson's on notice that it has not met the requirements of Section XX.C. of the Storm Water Permit, and that any discharges from the Facility not in compliance with the Storm Water Permit are violations of Sections 301(a) and 402(p) of the Clean Water Act.

Discharge Prohibition III.B. Information available to Waterkeeper indicates that unauthorized non-storm water discharges occur at the Facility due to inadequate BMP development and/or implementation necessary to prevent these discharges. For example, unauthorized non-storm water discharges from the Facility during concrete and water truck filling, road watering, and/or when truck washing and cleaning activities occur. The Facility Owners and/or Operators conduct these activities without BMPs to prevent resulting non-storm water discharges. Non-storm water discharges resulting from these activities are not from sources that are listed among the authorized non-storm water discharges in the Storm Water Permit and thus are always prohibited.

Waterkeeper puts the Facility Owners and/or Operators on notice that the Storm Water Permit Discharge Prohibitions are violated each time unauthorized non-storm water is discharged from the Facility. *See* 1997 Permit, Discharge Prohibition A(1); *see also* 2015 Permit, Discharge Prohibition III.B. These discharge violations are ongoing and will continue until the Facility Owners and/or Operators develop and implement BMPs that prevent prohibited non-storm water discharges or obtain separate NPDES permit coverage. Each time the Facility Owners and/or Operators discharge prohibited non-storm water in violation of Discharge Prohibition A(1) of the 1997 Permit and Discharge Prohibition III.B. of the 2015 Permit is a separate and distinct violation of the Storm Water Permit and section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). Waterkeeper will update the number and dates of violations when additional information becomes available. Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since March 25, 2011.

B. Discharges of Polluted Storm Water from the Facility in Violation of Storm Water Permit Effluent Limitations

Effluent Limitation B(3) of the 1997 Permit requires dischargers to reduce or prevent pollutants associated with industrial activity in storm water discharges through implementation of BMPs that achieve Best Available Technology Economically Achievable ("BAT") for toxic[11] and non-conventional pollutants and Best Conventional Pollutant Control Technology ("BCT") for conventional pollutants.[12] The 2015 Permit includes the same effluent limitation. *See* 2015 Permit, Effluent Limitation V.A.

Information available to Waterkeeper, including its review of publicly available information and observations, BMPs that achieve BAT/BCT have not been implemented at the Facility. Consistent with Waterkeeper's review of available information and direct observations, the analytical results of storm water sampling at the Facility demonstrate that the Facility Owners and/or Operators have failed and continue to fail to implement BAT/BCT, as required. Specifically, Facility discharges have exceeded EPA Benchmarks for numerous pollutants. EPA Benchmarks are relevant and objective standards for evaluating whether a permittee's BMPs achieve compliance with BAT/BCT standards as required by Effluent Limitation B(3) of the

[11] Toxic pollutants are listed at 40 C.F.R. § 401.15 and include copper, benzene, arsenic, lead, and zinc, among others.

[12] Conventional pollutants are listed at 40 C.F.R. § 401.16 and include biochemical oxygen demand, TSS, oil and grease, pH, and fecal coliform.

1997 Permit and Effluent Limitation V.A. of the 2015 Permit.[13] The table in Exhibit 1 sets forth the results of sampling at the Facility conducted by Waterkeeper as well as the Facility Owners and/or Operators. The repeated and significant exceedances of EPA Benchmarks as set forth in Exhibit 1 demonstrates that the Facility Owners and/or Operators have failed and continue to fail to develop and/or implement BMPs at the Facility as required to achieve compliance with the BAT/BCT standards.

Waterkeeper puts the Facility Owners and/or Operators on notice that the Storm Water Permit Effluent Limitations are violated each time storm water discharges from the Facility. *See, e.g.*, Exhibit 2 (setting forth dates of rain events resulting in a discharge at the Facility).[14] These discharge violations are ongoing and will continue every time Robertson's discharges polluted storm water without developing and/or implementing BMPs that achieve compliance with the BAT/BCT standards. Waterkeeper will update the dates of violations when additional information and data become available. Each time Robertson's discharges polluted storm water in violation of Effluent Limitation B(3) of the 1997 Permit and Effluent Limitation V.A. of the 2015 Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act; 33 U.S.C. § 1311(a). The Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since March 25, 2011.

Further, Waterkeeper puts the Facility Owners and/or Operators on notice that 2015 Permit Effluent Limitation V.A. is a separate, independent requirement with which Robertson's must comply, and that carrying out the iterative process triggered by exceedances of the Numeric Action Levels ("NALs") listed at Table 2 of the 2015 Permit does not amount to compliance with Effluent Limitation V.A. While exceedances of the NALs demonstrate that a facility is among the worst performing facilities in the State, such as the Facility, the NALs do not represent technology based criteria relevant to determining whether an industrial facility has implemented BMPs that achieve BAT/BCT.[15] And even if the Facility Owners and/or Operators submit any Exceedance Response Action Plan(s) pursuant to Section XII. of the 2015 Permit, the violations of Effluent Limitation V.A. described in this Notice Letter are ongoing.

---

[13] *See United States Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) Authorization to Discharge Under the National Pollutant Discharge Elimination System*, as modified effective February 26, 2009 ("Multi-Sector Permit"), Fact Sheet at 106; *see also*, 65 Federal Register 64839 (2000).

[14] Dates of significant rain events are measured at the Rialto Airport EOC rain gauge operated by San Bernardino County Flood Control District. A significant rain event is defined by EPA as a rainfall event generating 0.1 inches or more of rainfall, which generally results in discharges at a typical industrial facility.

[15] "The NALs are not intended to serve as technology-based or water quality-based numeric effluent limitations. The NALs are not derived directly from either BAT/BCT requirements or receiving water objectives. NAL exceedances defined in [the 2015] Permit are not, in and of themselves, violations of [the 2015] Permit." 2015 Permit, Finding 63, p. 11. The NALs do, however, trigger reporting requirements. *See* 2015 Permit, Section XII.

C. Discharges of Polluted Storm Water from the Facility in Violation of Storm Water Permit Receiving Water Limitations

Receiving Water Limitation C(2) of the 1997 Permit prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of an applicable Water Quality Standard ("WQS").[16] The 2015 Permit includes the same receiving water limitation. *See* 2015 Permit, Receiving Water Limitation VI.A. Discharges that contain pollutants in excess of an applicable WQS violate the Storm Water Permit Receiving Water Limitations. *See* 1997 Permit, Receiving Water Limitation C(2); 2015 Permit, Receiving Water Limitation VI.A.

Receiving Water Limitation C(1) of the 1997 Permit prohibits storm water discharges and authorized non-storm water discharges to surface water that adversely impact human health or the environment. The 2015 Permit includes the same receiving water limitation. *See* 2015 Permit, Receiving Water Limitation VI.B. Discharges that contain pollutants in concentrations that exceed levels known to adversely impact aquatic species and the environment constitute violations of the Storm Water Permit Receiving Water Limitations. *See* 1997 Permit, Receiving Water Limitation C(1); 2015 Permit, Receiving Water Limitation VI.B.

Storm water sampling at the Facility demonstrates that discharges contain concentrations of pollutants that cause or contribute to a violation of an applicable WQS. For example, the storm water samples collected by Waterkeeper on January 5, 2016, and January 31, 2016, measured pH levels of 9.04 and 9.94 over 10 times the Basin Plan criteria range for pH. *See* Exhibit 1. Additionally, the January 31, 2016 sample measured copper levels of .055, more than 1.66 times the allotted amount. These exceedances of WQS demonstrate that Robertson's has violated and continues to violate the Storm Water Permit Receiving Water Limitations. *See* 1997 Permit, Receiving Water Limitation C(2); 2015 Permit, Receiving Water Limitation VI.A.

As explained herein, the Receiving Waters are impaired, and thus unable to support the designated beneficial uses, for some of the same pollutants discharging from the Facility. The 2010 303(d) List of Impaired Water Bodies lists the Receiving Waters as impaired for multiple pollutants, including copper and lead. Information available to Waterkeeper indicates that the Facility's storm water discharges contain elevated concentrations of pollutants, such as aluminum, iron, and pH, which can be acutely toxic and/or have sub-lethal impacts on the avian and aquatic wildlife in the Receiving Waters. *See, e.g.*, Exhibit 1. Discharges of elevated concentrations of pollutants in the storm water from the Facility also adversely impact human health. These harmful discharges from the Facility are violations of the Storm Water Permit

[16] The Basin Plan designates Beneficial Uses for the Receiving Waters. Water quality standards are pollutant concentration levels determined by the state or federal agencies to be protective of designated Beneficial Uses. Discharges above water quality standards contribute to impairment of Receiving Waters' Beneficial Uses. Applicable water quality standards include, among others, the Criteria for Priority Toxic Pollutants in the State of California, 40 C.F.R. § 131.38 ("CTR"), and water quality objectives in the Basin Plan. Industrial storm water discharges must strictly comply with water quality standards, including those criteria listed in the applicable basin plan. *See Defenders of Wildlife v. Browner*, 191 F.3d 1159, 1166-67 (9th Cir. 1999).

Receiving Water Limitations. *See* 1997 Permit, Receiving Water Limitation C(1); 2015 Permit, Receiving Water Limitation VI.B.

Waterkeeper puts the Facility Owners and/or Operators on notice that Storm Water Permit Receiving Water Limitations are violated each time polluted storm water discharges from the Facility. *See, e.g.*, Exhibit 2. These discharge violations are ongoing and will continue every time contaminated storm water is discharged in violation of the Storm Water Permit Receiving Water Limitations. Each time discharges of storm water from the Facility cause or contribute to a violation of an applicable WQS is a separate and distinct violation of Receiving Water Limitation C(2) of the 1997 Permit, Receiving Water Limitation VI.A. of the 2015 Permit VI.A, and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). Each time discharges from the Facility adversely impact human health or the environment is a separate and distinct violation of Receiving Water Limitation C(1) of the 1997 Permit, Receiving Water Limitation VI.B. of the 2015 Permit, and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). Waterkeeper will update the dates of violation when additional information and data becomes available. The Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since March 25, 2011.

Further, Waterkeeper puts the Facility Owners and/or Operators on notice that 2015 Permit Receiving Water Limitations are separate, independent requirements with which Robertson's must comply, and that carrying out the iterative process triggered by exceedances of the NALs listed at Table 2 of the 2015 Permit does not amount to compliance with the Receiving Water Limitations. The NALs do not represent water quality based criteria relevant to determining whether an industrial facility has caused or contributed to an exceedance of a water quality standard.[17] And even if the Facility Owners and/or Operators submit any Exceedance Response Action Plan(s) pursuant to Section XII. of the 2015 Permit, the violations of the Receiving Water Limitations described in this Notice Letter are ongoing.

D. Failure to Develop, Implement, and/or Revise an Adequate Storm Water Pollution Prevention Plan

The Storm Water Permit requires permittees to develop and implement Storm Water Pollution Prevention Plans prior to conducting, and in order to continue, industrial activities. The specific SWPPP requirements of the 1997 Permit and the 2015 Permit are set out below.

1. 1997 SWPPP Requirements

Section A(1) and Provision E(2) of the 1997 Permit require dischargers to have developed and implemented a SWPPP by October 1, 1992, or prior to beginning industrial

[17] "The NALs are not intended to serve as technology-based or water quality-based numeric effluent limitations. The NALs are not derived directly from either BAT/BCT requirements or receiving water objectives. NAL exceedances defined in [the 2015] Permit are not, in and of themselves, violations of [the 2015] Permit." 2015 Permit, Finding 63, p. 11. The NALs do, however, trigger reporting requirements. *See* 2015 Permit, Section XII.

activities, that meets all of the requirements of the Storm Water Permit. The objectives of the 1997 Permit SWPPP requirement are to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges from the Facility, and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. *See* 1997 Permit, Section A(2). These BMPs must achieve compliance with the Storm Water Permit's Effluent Limitations and Receiving Water Limitations.

To ensure compliance with the Storm Water Permit, the SWPPP must be evaluated on an annual basis pursuant to the requirements of Section A(9) of the 1997 Permit, and must be revised as necessary to ensure compliance with the Storm Water Permit. 1997 Permit, Sections A(9) and (10). Sections A(3) – A(10) of the 1997 Permit set forth the requirements for a SWPPP. Among other requirements, the SWPPP must include: a site map showing the facility boundaries, storm water drainage areas with flow patterns, nearby water bodies, the location of the storm water collection, conveyance and discharge system; structural control measures, areas of actual and potential pollutant contact, areas of industrial activity, and other features of the facility and its industrial activities (*see* 1997 Permit, Section A(4)); a list of significant materials handled and stored at the site (*see* 1997 Permit, Section A(5)); a description of potential pollutant sources, including industrial processes, material handling and storage areas, dust and particulate generating activities, significant spills and leaks, non-storm water discharges and their sources, and locations where soil erosion may occur (*see* 1997 Permit, Section A(6)).

Sections A(7) and A(8) of the 1997 Permit require an assessment of potential pollutant sources at the facility and a description of the BMPs to be implemented at the facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective.

2. 2015 SWPPP Requirements

As with the SWPPP requirements of the 1997 Permit, Sections X(A) – (H) of the 2015 Permit require dischargers to have developed and implemented a SWPPP that meets all of the requirements of the 2015 Permit. *See also* 2015 Permit, Appendix 1. The objective of the SWPPP requirements are still to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges, and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. *See* 2015 Permit, Section X(C).

The SWPPP must include, among other things and consistent with the 1997 Permit, a narrative description and summary of all industrial activity, potential sources of pollutants, and potential pollutants; a site map indicating the storm water conveyance system, associated points of discharge, direction of flow, areas of actual and potential pollutant contact, including the extent of pollution-generating activities, nearby water bodies, and pollutants control measures; a description of the BMPs developed and implemented to reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges necessary to comply with the Storm Water Permit; the identification and elimination of non-storm water discharges; the location

classified as SIC code 1442, such as this Facility, to also analyze storm water samples for N+N. *Id.*; *see also* 1997 Permit, Table D, Sector E.

2. 2015 Permit Requirements

As with the 1997 M&RP requirements, Sections X(I) and XI(A)-XI(D) of the 2015 Permit require facility operators to develop and implement an adequate M&RP that meets all of the requirements of the 2015 Permit. The objective of the M&RP is still to detect and measure the concentrations of pollutants in a facility's discharge, and to ensure compliance with the 2015 Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. *See* 2015 Permit, Section XI. An adequate M&RP ensures that BMPs are effectively reducing and/or eliminating pollutants at the facility, and is evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *See id.*

As an *increase* in observation frequency to the 1997 Permit, Section XI(A) of the 2015 Permit requires all visual observations at least once each month, and at the same time sampling occurs at a discharge location. Observations must document the presence of any floating and suspended material, O&G, discolorations, turbidity, odor and the source of any pollutants. 2015 Permit, Section XI(A)(2). Dischargers must document and maintain records of observations, observation dates, locations observed, and responses taken to reduce or prevent pollutants in storm water discharges. 2015 Permit, Section XI(A)(3).

Section XI(B)(1-5) of the 2015 Permit requires permittees to collect storm water discharge samples from a qualifying storm event[19] as follows: 1) from each discharge location, 2) from two storm events within the first half of each reporting year[20] (July 1 to December 31), 3) from two storm events within the second half of each reporting year (January 1 to June 30), and 4) within four hours of the start of a discharge, or the start of facility operations if the qualifying storm event occurs within the previous 12-hour period. Section XI(B)(11) of the 2015 Permit, among other requirements, provides that permittees must submit all sampling and analytical results for all samples via SMARTS within 30 days of obtaining all results for each sampling event.

The parameters to be analyzed are also consistent with the 1997 Permit, however, the 2015 Permit no longer requires SC to be sampled. Specifically, Section XI(B)(6)(a)-(b) of the 2015 Permit requires permittees to analyze samples for TSS, oil & grease, and pH. Section XI(B)(6)(c) of the 2015 Permit requires permittees to analyze samples for pollutants associated with industrial operations. Section XI(B)(6) of the 2015 Permit also requires dischargers to analyze storm water samples for additional applicable industrial parameters related to receiving waters with 303(d) listed impairments, or approved Total Maximum Daily Loads.

[19] The 2015 Permit defines a qualifying storm event as one that produces a discharge for at least one drainage area, and is preceded by 48-hours with no discharge from any drainage areas. 2015 Permit, Section XI(B)(1).

[20] A reporting year is defined as July 1 through June 30. 2015 Permit, Findings, ¶ 62(b).

3. The Facility Owners and/or Operators Have Violated and Continue to Violate the Storm Water Permit M&RP Requirements

The Facility Owners and/or Operators have been and continue to conduct operations at the Facility with an inadequately developed, implemented, and/or revised M&RP. For example, the Facility Owners and/or Operators have failed and continue to fail to develop an M&RP that requires the Facility Owners and/or Operators to analyze storm water discharges from the Facility for all required parameters by failing to specify that storm water discharges will be analyzed for, at a minimum, aluminum, lead, zinc, cadmium, chromium, copper, arsenic, COD, N+N, and BOD, in violation of Section B(5)(c) of the 1997 Permit and Section XI(B)(6)(c) of the 2015 Permit.

In addition, the Facility Owners and/or Operators failed and continue to fail to develop an M&RP that requires that the applicable test methods be used when analyzing storm water samples from the Facility by not requiring the use of a calibrated pH meter to test pH levels in violation of Section XI(C)(2)(c) of the 2015 Permit.[21]

The Facility Owners and/or Operators also failed to collect and analyze storm water samples as required by the Storm Water Permit. For example, for the past five (5) years the Facility Owners and/or Operators have not collected storm water samples as required in violation of Sections B(5), B(7), and B(15) of the 1997 Permit. The Facility is part of the "Building Material Industry" Group Monitoring Plan. Specifically, pursuant to the applicable group monitoring plan, the Facility Owners and/or Operators were required to collect samples in the 2011/2012 and 2012/2013 wet seasons. However, the Facility Owners and/or Operators collected no samples in those wet seasons.

The Facility Owners and/or Operators state in the 2012/2013, 2013/2014, and 2014/2015 Annual Reports that the Facility "is a construction based business and during inclement weather our facility is closed," Waterkeeper has observed and has obtained publicly available information demonstrating that, in fact, the Facility does operate during storm events. That the Facility operates during storm events is further demonstrated by the fact that the Facility Owners and/or Operators recently collected storm water samples from the Facility.

In fact, Robertson's collected a storm water sample for the Facility on December 22, 2015. However, the Facility Owners and/or Operators failed to analyze December 22 sample for all required contaminants, including N+N, in violation of Section XI(B)(6) of the 2015 Permit. *See* Exhibit 1.

The Facility Owners' and/or Operators' failure to conduct sampling and monitoring as required by the Storm Water Permit demonstrates that it has failed to develop, implement, and/or revise an M&RP that complies with the requirements of the Storm Water Permit. Every day that

[21] Information available to Waterkeeper, including storm water samples collected by Waterkeeper, indicates that the Facility is in, or will likely be in, Level 1 status based on pH levels in storm water discharges from the Facility.

the Facility Owners and/or Operators conduct operations in violation of the specific monitoring requirements of the Storm Water Permit, or with an inadequately developed and/or implemented M&RP, is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The Facility Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit's M&RP requirements every day since at least March 25, 2011. These violations are ongoing, and Waterkeeper will include additional violations when information becomes available. The Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since March 25, 2011.

F. Failure to Comply with the Storm Water Permit's Reporting Requirements

Section B(14) of the 1997 Permit requires a permittee to submit an Annual Report to the Regional Board by July 1 of each year. Section B(14) requires that the Annual Report include a summary of visual observations and sampling results, an evaluation of the visual observation and sampling results, the laboratory reports of sample analysis, the annual comprehensive site compliance evaluation report, an explanation of why a permittee did not implement any activities required, and other information specified in Section B(13). The 2015 Permit includes the same annual reporting requirement. *See* 2015 Permit, Section XVI.

The Facility Owners and/or Operators failed and continue to fail to submit Annual Reports that comply with these reporting requirements. For example, in each Annual Report since the filing of the 2011/2012 Annual Report, the Facility Owners and/or Operators certified that: (1) a complete Annual Comprehensive Site Compliance Evaluation was done pursuant to Section A(9) of the Storm Water Permit; (2) the SWPPP's BMPs address existing potential pollutant sources; and (3) the SWPPP complies with the Storm Water Permit, or will otherwise be revised to achieve compliance. However, information available to Waterkeeper indicates that these certifications are erroneous. For example, as discussed above, storm water samples collected from the Facility contain concentrations of pollutants above Benchmark Levels, thus demonstrating that the SWPPP's BMPs do not adequately address existing potential pollutant sources. Further, the Facility's SWPPP does not include many elements required by the Storm Water Permit, and thus it is erroneous to certify that the SWPPP complies with the Storm Water Permit.

The Facility Owners and/or Operators have also submitted incomplete Annual Reports. For instance, in the 2012/2013, 2013/2014, 2014/2015 Annual Reports the Facility Owners and/or Operators have failed to include required explanations for its failures to conduct certain required sampling and/or observations. In the 2012/2013, 2013/2014, 2014/2015 Annual Reports, as the reason no samples were collected the Facility Owners and/or Operators state that the Facility "is a construction based business and during inclement weather our facility is closed." Not only does information available to Waterkeeper demonstrate that the Facility does operate during storm events, the 1997 Permit and the 2015 Permit do not excuse failures to collect required samples on this basis.

In addition, the facility operator must report any noncompliance with the Storm Water Permit at the time that the Annual Report is submitted, including 1) a description of the noncompliance and its cause, 2) the period of noncompliance, 3) if the noncompliance has not been corrected, the anticipated time it is expected to continue, and 4) steps taken or planned to reduce and prevent recurrence of the noncompliance. Storm Water Permit, Section C(11)(d). The Owners and/or Operators have not reported non-compliance as required.

Information available to Waterkeeper indicates that the Facility Owners and/or Operators have submitted incomplete and/or incorrect Annual Reports that fail to comply with the Storm Water Permit. As such, the Facility Owners and/or Operators are in daily violation of the Storm Water Permit. Every day the Facility Owners and/or Operators conduct operations at the Facility without reporting as required by the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). The Facility Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit's reporting requirements every day since at least March 25, 2011. These violations are ongoing, the 2015 Permit's annual reporting requirements are as stringent as the 1997 Permit requirements, and Waterkeeper will include additional violations when information becomes available, including specifically violations of the 2015 Permit reporting requirements (*see* 2015 Permit, Sections XII. and XVI.). The Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since March 25, 2011.

IV. RELIEF SOUGHT FOR VIOLATIONS OF THE CLEAN WATER ACT

Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Clean Water Act subjects the violator to a penalty for all violations occurring during the period commencing five years prior to the date of the Notice Letter. These provisions of law authorize civil penalties of up to $37,500.00 per day per violation for all Clean Water Act violations after January 12, 2009.

In addition to civil penalties, Waterkeeper will seek injunctive relief preventing further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), declaratory relief, and such other relief as permitted by law.

Lastly, pursuant to Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), Waterkeeper will seek to recover its costs, including attorneys' and experts' fees, associated with this enforcement action.

V. CONCLUSION

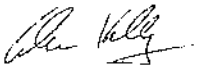
Waterkeeper is willing to discuss effective remedies for the violations described in this Notice Letter. However, upon expiration of the 60-day notice period, Waterkeeper will file a citizen suit under Section 505(a) of the Clean Water Act and Section 304(b) of the Clean Air Act for Robertson's violations of the Storm Water Permit.

If you wish to pursue settlement discussions please contact Waterkeeper's legal counsel:

Caroline Koch
Lawyers for Clean Water, Inc.
1004A O'Reilly Avenue
San Francisco, California 94129

Inland Empire Waterkeeper
c/o Orange County Coastkeeper
ATTN: Colin A. Kelly
3151 Airway Ave., Suite F-110
Costa Mesa, CA 92626
Tel: (714) 850-1965 ext. 307

Sincerely,



Colin Kelly
Senior Staff Attorney
Inland Empire Waterkeeper
Orange County Coastkeeper

SERVICE LIST

VIA U.S. MAIL

Loretta Lynch, Attorney General
U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Jared Blumenfeld
Regional Administrator
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, California 94105

Kurt Berchtold
Executive Officer
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, California 92501

Gina McCarthy
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Thomas Howard
Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812

Robertson's Rialto Batch & Rock Plant

Notice of Violation and Intent to File Suit

Exhibit 1

Sample collected by Waterkeeper (W) or Discharger (D)	Date of sample collection	Sample Location	Parameter	Result	Units	Benchmark	Magnitude of Benchmark Exceedance	California Toxics Rule Criteria/WQO	Magnitude of CTR/WQO Exceedance
2011-2012 WET SEASON									
no samples collected									
2012-2013 WET SEASON									
no samples collected									
2013-2014 WET SEASON									
no samples collected									
2014-2015 WET SEASON									
no samples collected									
2015-2016 REPORTING YEAR									
D	12/22/15	Outfall 1	Iron	5.04	mg/L	1	5.04	none	0
D	12/22/15	Outfall 1	Total Suspended Solids	466	mg/L	100	4.66	none	0
D	12/22/15	Outfall 1	Oil & Grease	49.1	mg/L	15	3.273333333	none	0
W	1/5/16	Outfall 1	Iron	49	mg/L	1	49	none	0
W	1/5/16	Outfall 1	pH	9.04	s.u.	6.0-9.0	.04 above range	6.5-8.5	.54 above range
W	1/5/16	Outfall 1	Specific Conductance	100	umhos/cm	200	0	none	0
W	1/5/16	Outfall 1	Total Suspended Solids	930	mg/L	100	9.3	none	0
W	1/5/16	Outfall 1	Oil & Grease	ND	mg/L	15	0	none	0
W	1/5/16	Outfall 1	Total Organic Carbon	2.3	mg/L	110	0	none	0
W	1/31/16	Outfall 1	Iron	54	mg/L	1	54	none	0
W	1/31/16	Outfall 1	Total Suspended Solids	1800	mg/L	100	18	none	0
W	1/31/16	Outfall 1	pH	9.94	s.u.	6.0-9.0	0.94 above range	6.5-8.5	1.44 above range
W	1/31/16	Outfall 1	Aluminum	35	mg/L	0.75	46.66666667	none	0
W	1/31/16	Outfall 1	Zinc	0.32	mg/L	0.26	1.230769231	0.26	1.230769231
W	1/31/16	Outfall 1	Copper	0.055	mg/L	0.0332	1.656626506	0.033	1.666666667
W	1/31/16	Outfall 1	Lead	0.042	mg/L	0.262	0	0.26	0
W	1/31/16	Outfall 1	N+N	1.1	mg/L	0.68	1.617647059	none	0
W	3/6/16	Outfall 1	Total Suspended Solids	460	mg/L	100	4.6	none	0
W	3/6/16	Outfall 1	Iron	11	mg/L	1	11	none	0
W	3/6/16	Outfall 1	Zinc	0.084	mg/L	0.26	0	0.26	0
W	3/6/16	Outfall 1	pH	9.57	mg/L	6.0-9.0	.57 above range	6.5-8.5	1.07 above range
					Total Benchmark Exceedances		**16**	**Total CTR/WQO Exceedances**	**5**

Robertson's Rialto Batch & Rock Plant

Notice of Violation and Intent to File Suit

Exhibit 2

Rialto Airport EOC (Station ID 2830) Latitude: 34.12500, Longitude: -117.4072		
Date	Day of Week	Rainfall
3/8/11	Tuesday	0.2
3/20/11	Sunday	0.12
3/21/11	Monday	0.94
3/22/11	Tuesday	1.65
3/24/11	Thursday	0.35
3/26/11	Saturday	0.59
3/28/11	Monday	0.12
4/9/11	Saturday	0.59
5/18/11	Wednesday	0.2
5/19/11	Thursday	0.51
5/20/11	Friday	0.51
1/22/12	Sunday	0.51
1/24/12	Tuesday	0.35
1/25/12	Wednesday	0.39
2/12/12	Sunday	0.2
2/13/12	Monday	0.2
2/14/12	Tuesday	0.2
2/15/12	Wednesday	0.2
2/16/12	Thursday	0.28
2/17/12	Friday	0.28
3/18/12	Sunday	1.34
3/19/12	Monday	1.57
3/20/12	Tuesday	1.57
3/26/12	Monday	0.67
3/27/12	Tuesday	0.83
3/28/12	Wednesday	0.83
4/1/12	Sunday	0.12
4/2/12	Monday	0.12
4/12/12	Thursday	0.51
4/13/12	Friday	0.51
4/14/12	Saturday	1.1
4/15/12	Sunday	1.14
4/16/12	Monday	1.14
4/26/12	Thursday	0.12
4/27/12	Friday	0.28
7/14/12	Saturday	0.12
10/12/12	Friday	0.16
10/13/12	Saturday	0.16

Rialto Airport EOC (Station ID 2830) Latitude: 34.12500, Longitude: -117.4072		
11/9/12	Friday	0.12
11/10/12	Saturday	0.12
11/20/12	Tuesday	0.12
11/21/12	Wednesday	0.12
11/30/12	Friday	0.2
12/1/12	Saturday	0.67
12/3/12	Monday	0.16
12/4/12	Tuesday	0.43
12/13/12	Thursday	0.2
12/14/12	Friday	0.98
12/16/12	Sunday	0.12
12/19/12	Wednesday	0.35
12/25/12	Tuesday	0.35
12/27/12	Thursday	0.24
12/30/12	Sunday	0.16
12/31/12	Monday	0.16
1/7/13	Monday	0.2
1/8/13	Tuesday	0.2
1/25/13	Friday	0.24
1/26/13	Saturday	0.63
1/27/13	Sunday	0.67
1/28/13	Monday	0.28
1/29/13	Tuesday	0.28
2/9/13	Saturday	0.43
2/10/13	Sunday	0.43
12/8/13	Sunday	0.35
12/20/13	Friday	0.28
12/21/13	Saturday	0.28
2/7/14	Friday	0.2
2/8/14	Saturday	0.24
2/28/14	Friday	0.47
3/1/14	Saturday	2.52
3/2/14	Sunday	2.6
3/3/14	Monday	2.6
4/3/14	Thursday	0.16
4/26/14	Saturday	0.51
8/4/14	Monday	0.71
12/1/14	Monday	0.24
12/3/14	Wednesday	1.38

Rialto Airport EOC (Station ID 2830) Latitude: 34.12500, Longitude: -117.4072		
12/4/14	Thursday	2.4
12/17/14	Wednesday	0.24
2/23/15	Monday	0.67
5/8/15	Friday	0.24
7/20/15	Monday	0.47
9/16/15	Wednesday	1.26
12/11/15	Friday	0.16
1/6/16	Wednesday	0.98
1/7/16	Thursday	0.94
2/1/16	Monday	0.71
2/18/16	Thursday	0.35
	Total Rain Days	**88**